

## MEMORANDUM

TO: Mayor Craig Brown and Members of Council

CC: City Manager Office, Executive Leadership Team, City Attorney Office

FROM: Sally Bakko, Director of Policy and Governmental Relations

DATE: September 15, 2023

RE: Legislative Report: Austin and Washington Update

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Please find below an update on legislative activities in Austin and Washington. (*To access links below, control+click on link.*)

### Austin Update

#### **Texas Commission on Environmental Quality (TCEQ) RESTORE Bucket 3 State Expenditure Plan (SEP) Proposed Amendment Reduces Shoreline and Beach Restoration Funds**

As Governor Abbott's appointee to the RESTORE Council, and Deputy Chief of Staff for the Governor, Toby Baker is seeking public comment on proposed amendment #2 to the [Texas State Expenditure Plan \(SEP\)](#), for Bucket 3.

The amended SEP #2 proposes to make the following changes:

- increase the amount authorized for the Nature Based Tourism program (Appendix A in the SEP) by \$15,000,000 for a total of \$22,830,000 available funds; and
- decrease the amount authorized for the Shoreline and Beach Restoration program (Appendix D in the SEP) by \$15,000,000 for a total of \$8,680,000 available funds.

Comments must be submitted to [RComments@tceq.texas.gov](mailto:RComments@tceq.texas.gov) by 5:00 pm CT on Friday, October 27th.

#### **Texas Department of Information Resources Cyber Incident Reporting Requirement**

[S.B. 271](#), effective September 1, requires state agencies and local governments that experience a cybersecurity incident to:

1. report to the Department of Information Resources (DIR) within 48 hours after discovery (or to notify the Secretary of State if the incident involves election data); and
2. comply with the notification requirements of [Business & Commerce Code Section 521.052](#) to the same extent as a person who conducts business in this state.

The law also requires local governments to report security incident details and cause analysis to DIR within ten days after incident eradication, closure, and recovery.

DIR has launched a portal for local governments to report an incident and has provided the [following information](#) about the reporting requirement:

**Who is required to report:** State and local governments that own, license, or maintain computerized data that includes sensitive personal information, confidential information, or information the disclosure of which is regulated by law – and that experience a security incident – are required to report. (The reporting requirement does not apply to a security incident that a local government is required to report to ERCOT under [Utilities Code Section 39.151](#).)

**What is a security incident:** A “security incident” is defined as:

1. a breach or suspected breach of system security as defined by [Business & Commerce Code Section 521.053](#); and
2. the introduction of ransomware, as defined by [Penal Code Section 33.023](#), into a computer, computer network, or computer system.

**How to Report:** Incident reports are submitted via the [Archer Engage](#) secure webform. To submit an incident:

1. Create an Engage account.
2. Log into Engage (enter username and password; submit one-time verification code – if after logging in you are not redirected to the incident form, please click the Engage link again.)
3. Submit incident report and receive email confirmation, this email may be delayed by up to 30 minutes from when you submit your report (retain email confirmation with incident ID).
4. Submit incident closure and receive email confirmation.

**Reporting problems:** If you are unable to submit an incident using the reporting form, contact the DIR Incident Response Hotline at (877) DIR-CISO for assistance. In addition, DIR has prepared the [Local Government Incident Reporting User Guide](#) with more information.

## Washington Update

### Airport Terminal Program; FY 2024 Funding Opportunity

The U.S. Department of Transportation, Federal Aviation Administration (FAA) issued a [Notice of Funding Opportunity](#) to apply for the FY 2024 discretionary funds for the [Airport Terminal Program \(ATP\)](#). Eligible airports include those operated by authorities, cities, territories and tribes within the national air transportation system. Airports normally eligible for Airport Improvement Program (AIP) grants are eligible for this program too. The ATP, a competitive discretionary grant program created by the Infrastructure Investment and Jobs Act of 2021, provides approximately \$1 billion in grant funding annually for five years (FY 2022–2026) to upgrade, modernize, and rebuild airport terminals and airport-owned Airport Traffic Control Towers (ATCTs). Eligibility activities include: bringing airport facilities into conformity with current standards; constructing, modifying, or expanding facilities as necessary to meet demonstrated aeronautical demand; enhancing environmental sustainability; encouraging actual and potential competition; and providing a balanced system of airports to meet the roles and functions necessary to support civil aeronautical demand. In general, ATP funding is subject to the following annual award allocation limitations: not more than 55 percent shall be for large hub airports, not more than 15 percent shall be for medium hub airports, not more than 20 percent shall be for small hub airports, and not less than 10 percent shall be for nonhub and nonprimary airports.

**The application deadline is no later than 5:00 pm (Eastern Time), October 16, 2023.**

### FY 2024 Appropriations Update

House Republicans are discussing a three- to four-week Continuing Resolution (CR) to avert a partial government shutdown starting Oct. 1. The CR is a legislative measure used when the fiscal year expires (September 30) to continue current fiscal year funding (FY 2023), until FY 2024 appropriations agreements are reached. No decisions have been made on the timeframe or substance of a CR. A three-week option is under consideration, striking a happy medium between the 24-hour CR bill floated by some and the 60 days House Speaker Kevin McCarthy was initially considering.

Despite a deal on FY 2024 spending caps reached in the debt ceiling agreement passed in May, House Republican conservatives seek appropriating below those levels while the Senate, on a bipartisan basis, has added more money. As such, Republican conservatives are opposing any CR until reduced FY 2024 discretionary spending limits are agreed upon.

In the meantime, the Federal Emergency Management Agency (FEMA) has announced restrictions on disaster recovery funding due to diminishing resources in the Disaster Relief Fund. Moving forward, [only lifesaving, life-sustaining and critical disaster operations will receive funding](#) until Congress replenishes the fund.

Meanwhile, the House Rules Committee failed to pass rule for floor debate on the FY 2024 Defense Appropriations bill, typically the most bipartisan of the 12 appropriations bills. The rule is the initial procedural hurdle. If the House GOP can't pass its Defense bill, it makes things more difficult for the FY 2024 Homeland Security Appropriations bill House leaders wanted to move for floor consideration next week and provide additional funds for the Federal Emergency Management Agency (FEMA) Disaster Fund and border security.

A Senate procedural vote this week allowed for floor consideration of a "minibus" consisting of the Agriculture-Food and Drug Administration, Military Construction-Veterans Affairs, and Transportation, Housing and Urban Development (THUD) FY 2024 appropriations bills. However, Senator Ron Johnson (R-WI) is seeking to action on individual bills rather than a minibus package. As a result, further Senate action is delayed on FY 2024 appropriations or funding the government before September 30th.

### **FEMA's Community Disaster Resilience Zones focuses aid for disaster-prone regions**

This week the Federal Emergency Management Agency (FEMA) [announced](#) the initial designation of 483 census tracts that will be eligible for increased federal support to become more resilient to natural hazards and extreme weather. FEMA will use [Community Disaster Resilience Zones](#) designations to direct and manage financial and technical assistance for resilience projects. Designated zones will also have prioritized access to federal funding for resilience and mitigation projects. This initial set of designations covers all 50 states and the District of Columbia and can be explored on an [interactive map](#).

Galveston County, Texas was identified as a Community Disaster Resilience Zone on September 6, 2023, this includes two Census Tracts (724000, 724101) on Galveston Island and Pelican Island (see attached map) that satisfy both of the following criteria:

- The composite National Risk Index **score ranks in the top 50 nationally or in the top 1% within their state.**
- It is **identified as a disadvantaged community** by the Climate & Economic Justice Screening Tool.

### **National Flood Insurance Program (NFIP) Update**

This week a joint hearing on the Motion for Preliminary Injunction and FEMA's Motion to Dismiss was held at U.S. District Court, Eastern District of Louisiana on the [ten-state lawsuit against FEMA](#). The suit argues that Risk Rating 2.0 was filed in violation of the Administrative Procedures Act, amongst other arguments. Witness testimony and oral arguments were heard by Judge Darrel Papillion.

For your reference, please find court documents below:

- [Complaint – Louisiana State et al v. Department of Homeland Security et al, Docket No. 2:23-cv-01839 \(E.D. La. Jun 01, 2023\)](#)

- [Defendants’ Memorandum In Opposition To Plaintiffs’ Motion For Preliminary Injunction – Louisiana State et al v. Department of Homeland Security et al, Docket No. 2:23-cv-01839 \(E.D. La. Jun 01, 2023\)](#)
- [Declaration of David I. Maurstad – Explaining Risk 2.0 and laying out the factual basis for the government’s move to oppose the request for a preliminary injunction](#)

## **Funding Opportunities**

[Reconnecting Communities and Neighborhoods \(RCN\) Program](#): *Due September 28*

- *The details:* \$3.2 billion to restore community connectivity through the removal, retrofit, mitigation or replacement of highways, roadways, or other infrastructure facilities that create barriers to mobility, access or economic development.

[WaterSMART: Large-Scale Water Recycling Projects](#): *Due September 30*

- *The details:* \$180 million for projects that seek to secure and stretch clean water supplies.

[State and Local Cybersecurity Grant Program \(SLCGP\)](#): *Due September 30*

- *The details:* \$374.9 million to address cybersecurity risks and threats to information systems for FY 2023.

[Strengthening Mobility and Revolutionizing Transportation \(SMART\) Grants Program](#): *Due October 10*

- *The details:* \$100 million to fund innovation aimed at solving real-world transportation problems and focused on building data and technology capacity and experience for state, local, and tribal governments for FY 2023.

[Pilot Program for Transit-Oriented Development Planning](#): *Due October 10*

- *The details:* \$13 million for fixed guideway or transit capital improvement projects.

[Thriving Communities Program \(TCP\)](#): *LOI Due November 15*

- *The details:* \$22 million to provide grants and technical assistance to communities seeking to identify, develop, and deliver transportation and community revitalization opportunities through the Thriving Communities Program.

## **Reports of Interest**

[Drinking Water Infrastructure Needs Survey and Assessment: 7th Report to Congress](#)

The Environmental Protection Agency (EPA) an assessment that examines the nation’s public water systems’ infrastructure needs over the next 20 years and is used to allocate Drinking Water State Revolving Fund grants, including Infrastructure Investment and Jobs Act (IIJA) funding, to states. The survey determined that drinking water systems will need \$625 billion for pipe replacement, treatment plant upgrades, storage tanks, and other key assets.